HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 4204 OF 2006

DATED: 6.3.2006

Between:

Andhra Pradesh Eastern Power

Distribution Company Limited,

Operation Division, Bobbili, represented by

Its Divisional Electrical Engineer,

Bobbili, Vizianagaram District

… Petitioner

and

Assistant Provident Fund Commissioner/

Recovery Officer and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.4204 OF 2006

ORAL ORDER:

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Heard the learned counsel for the petitioner and the learned Standing Counsel for the Employees' Provident Fund.

The petitioner has been issued a Recovery Order dated 25.1.2006, under Section 14-B of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short 'the Act'), levying damages as specified therein. A Prohibitory Order dated 17.2.2006 has also been issued, under Sections 8B-8F of the Act. As against the order under Section 14-B of the Act, the petitioner has an appellate remedy to the Provident Fund Appellate Tribunal, New Delhi, under Section 17-I of the Act.

The petitioner's grievance however is that the appellate tribunal is dysfunctional at the moment because the earlier Presiding Officer had demitted office and no new officer has been appointed. The learned Standing Counsel for the 1st respondent does not dispute this factual position and the dysfunctionality of the appellate tribunal.

In the circumstances above, the petitioner is seen to have no effective alternative remedy though he has a potential remedy by way of an appeal, under the provisions of the Act.

Therefore, the writ petition is disposed of directing stay of all further proceedings, pursuant to the order of the 1st respondent bearing reference No.AP/VP/P.D. Cell/CC.56/11B/AP/15057/2006/547 dated 25.1.2006, including the Prohibitory Order dated 17.2.2006, on condition that the petitioner deposits 50% of the amount demanded by the order dated 25.1.2006 within three weeks from today. The deposit shall be made to the credit of the 1st respondent and in default of the deposit within the aforesaid time, the stay granted herein shall stand dissolved without further reference to this court. The stay granted herein shall be in operation

and force till the appointment of a Presiding Officer and a determination by such Presiding Officer of either the substantive appeal preferred by the petitioner or an interlocutory application filed along with the substantive appeal, seeking stay of the proceedings of the 1st respondent. The petitioner shall prefer the appeal to the Appellate Tribunal, in accordance with law.

With the above directions, the writ petition is disposed of at the stage of admission. No order as to costs.

GODA RAGHURAM, J

Date: 6.3.2006

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